IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3763 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NEELAMPARK CO-OP HOUSING SOC LTD

Versus

JETHALAL B PARMAR

Appearance:

1. Special Civil Application No. 3763 of 1991

MR RN SHAH for Petitioner No. 1

MR PV NANAVATI for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 17/12/2004

ORAL JUDGEMENT

1. The petitioner Society has preferred this petition in order to challenge the order dated 20/09/1990 passed by the Gujarat State Co-operative Tribunal, whereby the Tribunal had modified the judgment and order dated 06/11/1989 passed by the Board of Nominee in Arbitration Suit No.514 of 1982 (New No.16 of 1985).

2. The petitioner Society instituted a case being Arbitration Suit No.16 of 1985 before the Board of Nominee against the respondents for the recovery of Rs.92,190.60 on the ground that the respondents had floated another Society in the year 1973 and that they had misappropriated funds belonging to the petitioner Society. The Board of Nominee by judgment and order dated 06/11/1989, at Annexure-A to the petition, passed a decree in favour of the petitioner to recover the said amount along with interest.

3. Feeling aggrieved by the said order, the respondents herein preferred appeal being Appeal No.337 of 1989 before the Gujarat State Cooperative Tribunal (for short, "the Tribunal"). The Tribunal by judgment and order dated 20/09/1990, at Annexure-B to the petition, passed in the aforesaid appeal, modified the order passed by the Board of Nominee, whereby the award was reduced to Rs.32,175.00. Hence, this petition.

4. I have heard learned counsel for the parties and have gone through the orders passed by both the authorities below. The Tribunal has recorded a finding that only those transactions which have taken place between the parties, after the registration of the Society, are required to be adjudicated by the Board of Nominee. Accordingly, the decree was confirmed to that extent only by the Tribunal. The said action was even challenged by the respondents before this Court by way of a writ petition being Special Civil Application No.8910 of 1990. The said Special Civil Application was ultimately dismissed on merits.

5. Moreover, the rectification Resolution has not been produced on record, and therefore, unless the said fact is established by the petitioner Society by cogent reasons, no decree can be drawn against any member of the Society. I find no illegality in the order passed by the Tribunal and hence, it requires no interference from this Court in this petition.

6. For the foregoing reasons, the petition is dismissed. Rule is discharged with no order as to costs.

(K. S. Jhaveri, J.)

pravin/